

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JILL BLOOMBERG,

Plaintiff,

-against-

THE NEW YORK CITY DEPARTMENT EDUCATION
and CARMEN FARINA,

Defendants.

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**DEFENDANTS' NOTICE OF
MOTION TO DISMISS THE
COMPLAINT**

17-CV-3136 (PGG)

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss the Complaint, dated September 8, 2017, the Declaration of Joseph Anci, dated September 8, 2017, and upon all the papers and proceedings previously had herein, defendants New York City Department of Education and Carmen Farina will move this Court at the United States Courthouse for the Southern District of New York, 40 Foley Square, New York, New York, 10007, before the Honorable Paul G. Gardephe, United States District Judge, at a time and date to be designated by the Court, for a judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the first, second and third causes of action in the Amended Complaint dated May 23, 2017 on the grounds that: (1) any alleged protected speech by plaintiff was made as an employee and not as a citizen, and therefore she is unable to establish a First Amendment retaliation claim as a matter of law; (2) plaintiff fails to demonstrate that Chancellor's Regulation D-130 is unconstitutionally vague; and (3) plaintiff fails to satisfy the pleading requirements for a Title VI claim.

PLEASE TAKE FURTHER NOTICE that, pursuant to the September 1, 2017 Order of Judge Gardephe, plaintiff's opposition to defendant's motion to dismiss the complaint is due to be served on October 9, 2017, and defendant's reply papers, if any, are due on October 23, 2017, at which time the full-briefed motion will be filed via ECF by defense counsel.

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ZACHARY W. CARTER

Corporation Counsel of the City of New York

Attorney for Defendant

100 Church Street Rm. 2-123

New York, NY 10007

Of Counsel: Joseph Anci

Tel: (212) 356-1106

Due and timely service is hereby admitted.

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....., Esq.

Attorney for.....